

Office of Chief Counsel  
Internal Revenue Service  
**Memorandum**

Number: **200645020**

Release Date: 11/10/06

CC:TEGE:EOEG:ET1

POSTN-123959-06

UILC: 3231.01-00

date: July 17, 2006

to: Director, Submission Processing  
Cincinnati, OH  
Attn: Entity Unit

from: Office of Division Counsel/Associate Chief Counsel  
(Tax Exempt & Government Entities)

subject: Railroad Retirement Tax Act Status

---

In accordance with the coordination procedure established between the Service and the Railroad Retirement Board (RRB), the RRB has provided us with its opinion dated \_\_\_\_\_, on reconsideration of the status of the following businesses under the Railroad Retirement Act and the Railroad Unemployment Insurance Act:

No Employer Identification Numbers (EINs) were provided in the opinion.

We note the procedural and business structure history is complex. In the Board Coverage Decision No. \_\_\_\_\_, dated \_\_\_\_\_, the RRB determined that \_\_\_\_\_ was a covered sleeping car company employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act (the Acts) effective \_\_\_\_\_. \_\_\_\_\_ filed a timely request for reconsideration of the decision on \_\_\_\_\_, and requested a hearing on its appeal. After such hearing, submission of the Hearing Examiner's report, and the receipt of a declaratory order from the Surface Transportation Board (STB) holding that \_\_\_\_\_ was a rail common carrier, the RRB determined that \_\_\_\_\_ was a covered employer under the Acts as a

rail carrier rather than as a sleeping car company. However, the RRB noted that the evidence obtained in the appeal establishes that the original effective date of \_\_\_\_\_ was incorrect because \_\_\_\_\_ operated as two successive entities. The limited liability company which was the subject of B.C.D. and the STB decision was preceded by an incorporated business known as \_\_\_\_\_. Later, \_\_\_\_\_ assumed operations effective \_\_\_\_\_.

Accordingly, the RRB concluded that \_\_\_\_\_

\_\_\_\_\_ was a covered rail carrier employer under the Acts effective with the date it acquired the passenger cars from prior owners, \_\_\_\_\_, and ending \_\_\_\_\_. The RRB also concluded that \_\_\_\_\_ became a covered rail carrier employer under the Acts effective \_\_\_\_\_.

In the request for reconsideration regarding coverage of the \_\_\_\_\_, the Hearing Examiner's Report recommended that the RRB find two affiliated companies, \_\_\_\_\_ and \_\_\_\_\_, as covered employers by reason of being under common control with \_\_\_\_\_ and providing services in connection with railroad transportation.

The RRB concluded that \_\_\_\_\_ and \_\_\_\_\_ have been employers under the Acts. \_\_\_\_\_ performed its service immediately upon receiving title of the equipment effective \_\_\_\_\_, and thus its status as a covered employer began on that date. \_\_\_\_\_ did not perform its services until operations began effective \_\_\_\_\_.

We have reviewed the opinion of the RRB and, based upon the information submitted to us by the RRB we also conclude the following:

- \_\_\_\_\_ became an employer under the Railroad Retirement Tax Act on \_\_\_\_\_. However, we note that the entity may be treated as an entity disregarded as separate from its owner, \_\_\_\_\_.
- \_\_\_\_\_ became an employer under the Railroad Retirement Tax Act on \_\_\_\_\_ and ceased being an employer on \_\_\_\_\_.
- \_\_\_\_\_ became an employer under the Railroad Retirement Tax Act on \_\_\_\_\_.
- \_\_\_\_\_ became an employer under the Railroad Retirement Tax Act on \_\_\_\_\_. However, we note that the entity may be treated as an entity disregarded as separate from its owner, \_\_\_\_\_.

Please take the appropriate action regarding these businesses.

---

Janine Cook